
Chapter I. Background on the Worker Protection Standard

Introduction

The EPA Worker Protection Inspection Guidance Manual has been primarily developed for three reasons: 1) to provide state inspectors and regional personnel engaged in worker protection investigations with specific guidelines on how to conduct Federal worker protection inspections, 2) to provide State personnel with an overview of EPA's worker protection regulations promulgated in August of 1992, and 3) to provide guidance on how to verify compliance with these requirements. This revision of the guidance was made to reflect new regulatory actions issued by the EPA in response to concerns expressed by farm workers groups and grower groups.

Included in this guidance is a **risk-based targeting inspection scheme** (see pages II-8 - II-11 and Appendix B), which provides specific factors such as product toxicity, crops grown, worker exposure, compliance history, etc., to take into consideration when selecting priority sites for inspections.

For worker protection inspections, checklists have been provided in Appendix D. These checklists are highly recommended for use by State and Regional personnel while conducting worker protection inspections. Separate checklists are provided for each type of worker protection inspection, such as a registrant/producer/market place/dealer establishment inspections, a Farms/Greenhouses/Nurseries/Forests "Core" checklist for **Routine** inspections and a Farms/Greenhouses/Nurseries/Forests comprehensive checklist. The questions in the Core checklist address essential worker protection provisions which should be addressed in every Routine Use Inspection. The questions on the comprehensive use checklists should be addressed if the inspector is conducting a comprehensive worker protection inspection. EPA recommends that a comprehensive worker protection inspection be conducted if the inspection was targeted specifically to ensure compliance with WPS (as opposed to being a Routine inspection) or if the inspectors suspects non-compliance with the WPS based on answering the CORE questions. The page numbers on the checklists refer to the Worker Protection Field Pocket Guide.

Except for the checklists, EPA's worker protection manual has been designed primarily for office use, prior to initiation of an inspection. In addition to this specific worker protection inspection guidance document, general pesticide inspection guidance can be found in EPA's national pesticide inspection manual.

EPA also developed a handy Worker Protection Inspection Pocket Guide, which was designed to be carried in the field. The Pocket Guide will serve as a quick reference guide which contains a summary of key worker protection provisions found in the worker protection inspection manual.

The Revised Worker Protection Standard

The Environmental Protection Agency (EPA) revised its Worker Protection Standard (WPS) issued under the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) for agriculture pesticides in August, 1992 to reduce the risks of illness or injury resulting from worker pesticide exposure in agricultural production. The revised Standard expands the scope of the regulation to include not only workers performing hand labor operations in fields treated with pesticides, but also workers in forests, nurseries, and greenhouses, and employees who handle (mix, load, apply, etc.) pesticides for use in these locations. In addition, the revised Standard extends warnings about applications, use of personal protective equipment (PPE), and restrictions on entry to treated areas. There are also provisions for decontamination, emergency assistance, maintaining contact with handlers of highly toxic pesticides, and pesticide safety training. In May, 1995, and June, 1996, EPA issued regulatory actions to revise the 1992 WPS. These actions shorten the time period before employers must provide safety training to pesticide workers to 5 days, provide exemptions to certain requirements for crop advisors, allow exceptions to early entry restrictions for irrigation and limited contact activities, alter the restricted entry interval and decontamination supply requirements for certain active ingredients of low toxicity, and alter the language and size requirements for pesticide application warning signs. EPA has deemed these changes necessary based on comments and concerns expressed by the regulated community.

EPA Authority

EPA's authority to implement and enforce the Worker Protection Standard stems from the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) which was enacted in 1947 (7 U.S.C. 135), and then amended in 1972 (7 U.S.C. 136). This legislation requires that all pesticide products be registered with the EPA and makes it "unlawful for any person to use any registered pesticide in a manner inconsistent with its labeling." Violations of this law are subject to civil and criminal penalties. In addition to registration and labeling requirements, the amended Act charged EPA with protecting humans and the environment from unreasonable adverse effects of pesticides. This includes protecting employees who might be exposed to pesticides or their residues. Based on this legislation, EPA established the following rules which became effective October 20, 1992:

- Labeling Requirements for Pesticides and Devices, 40 CFR part 156, subpart K
- The revised Worker Protection Standard, 40 CFR part 170

Pesticide registrants are required by regulation to include certain statements on all pesticide product labels. These statements give

**Pesticide
Labeling
Requirements;
40 CFR part
156, sub-part K**

directions for use of the pesticides in the production of any agricultural plant on any agricultural establishment. These changes are specified in a separate rule published at the same time as the Worker Protection Standard: sub-part K of 40 CFR part 156, Labeling Requirements for Pesticides and Devices. The changes must appear on all products labeled for use in producing agricultural plants on farms, forests, nurseries, or greenhouses. **Registrants must comply with EPA PR Notices 93-7 and 93-11 when making these changes. (See Appendix F).**

The product compliance dates are as follows:

- No products bearing the WPS-required statements may be sold or distributed before **April 21, 1993**.
- All affected products sold or distributed by registrants after **April 21, 1994** were required to have revised labeling with the WPS-required statements or comply with EPA PR Notices 93-7 and 93-11).
- All affected products sold or distributed by anyone after **October 23, 1995** were required to bear the revised labeling with the WPS-required statements. To assist registrants and pesticide wholesalers and retailers in meeting this deadline, the EPA issued PR Notice 95-5 (September 28, 1995). PR Notice 95-5 outlines how to recognize product labels that must be amended to comply with the WPS, how to revise product labels for both Special and regular pesticide products, waivers of submission of compliant amended and final printed labeling, and the deadline for final product relabeling (See Appendix F).

The labeling requirements under 40 CFR part 156, subpart K:

- WPS reference statement
- application restrictions
- product-type identification
- state restrictions
- bilingual (English and Spanish) warning statements
- product-specific statements, including restricted-entry intervals, notification to workers statements, personal protective equipment.

Each of these is discussed on the following pages.

Reference Statement

All affected product labels must include a reference statement requiring users to comply with the Worker Protection Standard (40 CFR part 170). The citing of the Standard on the label is historically significant in that it is the first time a regulation has been so incorporated. The statement should be placed on the product label under the heading "Agricultural Use Requirements."

AGRICULTURAL USE REQUIREMENTS

Although the Standard itself is not reprinted on the labeling, users are responsible for becoming informed and complying with it.

Application Restriction

All affected product labels must include a statement prohibiting application of the product in any way that will contact workers or other persons directly or through drift. This statement must appear under the heading, "Directions For Use."

DIRECTIONS FOR USE

Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application.

Product-Type Identification

Products which contain an organophosphate or an N-methyl carbamate must indicate so on the label. This statement must be in the product name or product-type identification or must be in the STATEMENT OF PRACTICAL TREATMENT or FIRST AID section of the label.

If the product is a fumigant, this must be noted as part of the product name or as part of the product-type identification.

State Restrictions

Each product must include a statement that references state restrictions.

DIRECTIONS FOR USE

For any requirements specific to your State, consult the agency in your State responsible for pesticide regulation.

**Bilingual (English
and Spanish)
Warning
Statements**

If the product is classified as toxicity category I or toxicity category II, then the signal words "danger" and "warning" are required. They must also appear in Spanish. A message in Spanish and English must be adjacent to the signal word telling users to have all labeling explained to them if they do not understand the labeling requirements. Table 1.1 provides an example of the wording required.

Table 1.1 Spanish Warning Statements

Labeling Requirements	Toxicity Category I	Toxicity Category II
Spanish Signal Word	Peligro	Aviso
English Signal Word	Danger	Warning
Spanish Statement	Si usted no entiende la etiqueta, busque a alguien para que se la explique a usted en detalle.	
English Statement	If you do not understand the label, find some one to explain it to you in detail.	

Product-Specific Statement

All affected product labels must inform users of product specific requirements related to personal protective equipment, restricted-entry intervals, and/or notification to workers.

AGRICULTURAL USE REQUIREMENTS

This standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about (the use of any of the following that are applicable) personal protective equipment, restricted entry interval, and notification

**The Worker Protection Standard;
40 CFR part 170**

The provisions in the revised Worker Protection Standard apply not only to agricultural workers, as the previous rule did, but also to pesticide handlers and crop advisors. The Standard covers all pesticides that are used in the production of agricultural plants on farms, forests, nurseries, and greenhouses. An agricultural plant is any plant grown or maintained for commercial or research purposes and includes, but is not limited to, food, feed, and fiber plants; trees; turf grass; flowers, shrubs; ornamentals; and seedlings.

Exceptions for Workers, Handlers, and Crop Advisors

If a pesticide is used on one of these four types of establishments (farms, forests, nurseries, or greenhouses) for a purpose other than production of agricultural plants, that use is not covered by the Standard. The WPS does not apply when the pesticide is applied on an agricultural establishment in the following circumstances:

- for mosquito abatement, Mediterranean fruit fly eradication, or similar wide-area public pest control
- on livestock or other animals, or in or about animal premises
- on plants not grown for commercial or research purposes
- on ornamental plants in gardens, parks, lawns, etc.
- for uses not directly related to agricultural plant production (e.g., pastures, rangelands, structures, rights-of-way areas, etc.)

- for control of vertebrate pests
- as attractants or repellents in traps
- on the harvested portions of agricultural plants or on harvested timber
- for research uses of unregistered pesticides

In addition, Subpart B of the WPS does not apply when the pesticide is applied on an agricultural establishment by injection directly into agricultural plants (direct injection does not include chemigation, soil-incorporation, or soil injection, etc.). Knowledgeable and experienced crop advisors are also exempted from the requirements for personal protection equipment (PPE) (170.240), knowledge of labeling and site-specific information (170.232), decontamination (170.150 and 170.250) and emergency assistance (170.160 and 170.260).

Some States, Tribes or local governments with jurisdiction over pesticide enforcement may have additional worker protection requirements beyond the requirements described in the federal manual. (Please refer to your state regulations, where applicable, for additional requirements.)